



REPORT TO THE PLANNING COMMISSION

CITY COUNCIL CHAMBERS, 3300 CAPITOL AVENUE, FREMONT CA 94538

General Order of Business

1. Preliminary (Call to Order – 7:00 p.m.,
Salute to the Flag, Roll Call, Approval of
Minutes)
2. Consent Calendar
3. Oral Communications
4. Public Hearing Items
5. Matters of Interest
6. Adjournment



Addressing the Planning Commission

Any member of the public may speak on any item under discussion by the Planning Commission after “being recognized” by the Chairperson. To speak, walk to the rostrum directly in front of the Commission and, after the Chairperson recognizes you, state your name and address. Generally, after the Chairperson introduces an item, the order of presentation begins with comments by staff. The project applicant or their authorized representative may then comment. Next, interested members of the public may speak. Additional comments by the applicant or staff, as appropriate, may follow. At the close of testimony, the matter will return to the Planning Commission for discussion and action. Any item not introduced prior to 11:00 p.m. will automatically be “continued,” or held over, to the next regularly scheduled Planning Commission meeting.

Consent Calendar

Items on the Consent Calendar are scheduled public hearing items which are considered routine by the Planning Commission. The Consent items will be enacted by one motion and one vote and include the following:

- Items recommended for continuance to a later meeting.
- Items for which staff has received no indication of public concern and for which staff is recommending approval.
- Items which have been moved from the regular hearing agenda and placed on the Consent Calendar at the beginning of any particular meeting.

Items on the Consent Calendar may be removed by any member of the public or Planning Commission. If removed from the Consent Calendar, the item will be placed on the regular hearing agenda in its normal sequence on the agenda. When the Planning Commission approves a consent item, it approves the staff recommendation together with any conditions of approval included in the recommendation.

Please note that items on the regular hearing agenda may be placed on the Consent Calendar at the beginning of any particular meeting when requested by a member of the Planning Commission and with the approval of the Chairperson. If a Planning Commissioner requests that an item be moved from the regular hearing agenda and placed on the Consent Calendar, the Chairperson will ask if anyone in the audience or any other Commissioner wishes to speak to the item or have the item heard. If no one wishes to do so, the Chairperson may move the item to the Consent Calendar and it will be considered at that time. Accordingly, anyone wishing to speak to an item should be present at the beginning of the meeting.

Oral Communications

Any member of the public desiring to speak on a matter which is not scheduled on this agenda may do so under Oral Communications. As a matter of policy, the Planning Commission does not take immediate action on items presented under Oral Communications.

General Information

The Planning Commission usually meets on the 2nd and 4th Thursday of each month. [Exceptions: Only one meeting in August 27, November 12, and December 10.] Commission meetings are held in the City Council Chambers at 3300 Capitol Avenue.

Stenocaptioning and/or earphones for people who are hearing impaired are available from the Recording Clerk 15 minutes prior to the meeting. A driver's license will be held as a deposit. Commission meetings are open captioned for the deaf in the Council Chambers and closed captioned for home viewing. Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the Planning Department at (510) 494-4440. Planning Commission meetings are open captioned for the deaf in the Council Chambers and closed captioned for home viewing. For more information on Planning Commission please visit our website at <http://www.fremont.gov/Construction/PlanningCommission/default.htm> or contact the Planning Department at (510) 494-4440.

The regular meetings of the Fremont Planning Commission are broadcast on Cable Television Channel 27.

Availability of Public Records

All disclosable public records relating to an open session item on this agenda that are distributed by the City to all or a majority of the Historical Architectural Review Board less than 72 hours prior to the meeting will be available for public inspection at 39550 Liberty Street during normal business hours, at the time the records are distributed to the Planning Commission.

Copies of staff report are available at the Development Services Center at 39550 Liberty Street (between Stevenson Blvd. and Walnut Ave.) and at City Hall at 3300 Capitol Avenue the week of the meeting and are free of charge. Plans and other supporting documents may be viewed any day until noon the day of the Planning Commission meeting. Copies will be provided at cost when feasible. The Development Services Center is open 8 a.m. to 4 p.m., Mondays through Thursdays; and 8 a.m. to 12 p.m., Fridays.

Planning Commission final agendas, which include location maps, staff reports and proximity maps can also be viewed on the Internet at <http://www.fremont.gov/CityHall/PlanningMeetings/default.htm>.

The Planning Commission meetings are now also live over the Internet. Please note: Live webcasts are only available when the Planning Commission is in session. If the Planning Commission is not in session, the web browser will return a "busy" error.

To send an e-mail message to all of your Planning Commissioners send your message to:
planning_commission@fremont.gov

To leave a voice message for any of the Planning Commissioners, dial the numbers listed below:

David Bonaccorsi:	494-4895 *4998
Yogi Chugh:	494-4895 *4992
Richard King:	494-4895 *4995
Dirk Lorenz:	494-4895 *4997
Daniel Lydon:	494-4895 *4993
Lisa Quan:	494-4895 *4996
Dr. Rakesh Sharma:	494-4895 *4994

We appreciate your interest in the conduct of your City's business. Information about the City or the items discussed in this report may be referred to:

Planning Commission Secretary
City of Fremont Planning Division
39550 Liberty Street, P.O. Box 5006
Fremont, CA 94537-5006
Telephone: 510-494-4440

Planning Commissioners

Dr. Rakesh Sharma, Chairperson

Dirk Lorenz, Vice Chairperson

David Bonaccorsi

Yogi Chugh

Richard King

Daniel Lydon

Lisa Quan

City Staff

Jeff Schwob/Wayne Morris, Planning Commission Secretaries

Joan Borger, Assistant City Attorney

Scott Rennie, Senior Deputy City Attorney

Alice Malotte, Recording Clerk



AGENDA
FREMONT PLANNING COMMISSION MEETING, MAY 14, 2009
COUNCIL CHAMBERS, CITY HALL, 7:00 P.M.

1. PRELIMINARY

- 1.1 CALL TO ORDER**
- 1.2 SALUTE TO THE FLAG**
- 1.3 ROLL CALL**
- 1.4 APPROVAL OF MINUTES** – Regular Meeting of April 9, 2009.
- 1.5 DISCLOSURES**

2. CONSENT CALENDAR:

NOTICE: ITEMS ON THE PUBLIC HEARING CALENDAR MAY BE MOVED TO THE CONSENT CALENDAR IF NO ONE IS PRESENT TO SPEAK ON THE ITEMS. ALL APPLICANTS AND INTERESTED PERSONS ARE ADVISED TO BE PRESENT AT THE START OF THE MEETING.

Item 1. DOUBLE WOOD DEVELOPMENT AGREEMENT TERMINATION - AVALON HEIGHTS TERRACE - (PLN2009-00171) - to consider cancellation of a Development Agreement for the Doublewood Golf Course located in the Warm Springs Planning Area. The project is exempt from the California Environmental Quality Act (CEQA) per Guideline 15061(b)(3) in that it is not a project which has the potential for causing a significant effect on the environment.
Project Planner - Momoko Ishijima, (510) 494-4531, mishijima@fremont.gov

Recommended Recommend approval to City Council.
Action:

Item 2. PALM ACADEMY - 2856 WASHINGTON BOULEVARD - (PLN2009-00193) - to consider a Conditional Use Permit Amendment to U-97-6A to allow a preschool to be located at an existing religious facility located at 2856 Washington Boulevard in the Mission San Jose Planning Area. This project is exempt from the California Environmental Quality Act (CEQA) per Guideline 15301, Use of an Existing Facility.
Project Planner - Steve Kowalski, (510) 494-4532, skowalski@fremont.gov

Recommended Approve based on findings and subject to conditions.
Action:

Item 4. NILES ACQUISITION/DISPOSITION - 37482, 37592 and 37682 NILES BOULEVARD - (PLN2009-00204) - to consider a General Plan conformity finding, pursuant to Government Code Section 65402(c), for the City's acquisition of property from the Redevelopment Agency regarding a 1.7 acre portion of a larger parcel

containing the Niles Town Plaza for the purposes of ongoing maintenance and management. The finding also includes the sale of two adjacent City-owned parking lots (located in the Niles Planning Area totaling 1.49 acres) to the Redevelopment Agency for the purposes of environmental remediation and future redevelopment. The Finding is not subject to the California Environmental Quality Act (CEQA) per Guideline, 15378 definition of a project.

Project Planner - Terence Wong, (510) 494-4456, twong@fremont.gov

Recommended Action:	Find the property acquisition and disposition conforms to the City's General Plan.
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Item 5. CAPITAL IMPROVEMENT - CITY WIDE - (PLN2009-00211) - to consider a Finding for General Plan Conformity for the Five Year Capital Improvement Program (CIP) for fiscal years 2009/2010 through 2013/2014. The project is exempt from the California Environmental Quality Act (CEQA) per Guideline 15061(b)(3) in that it is not a project which has the potential for causing a significant effect on the environment.

Project Planner - Kelly Diekmann, (510) 494-4540, kdiekmann@fremont.gov

Recommended Action:	Find the Five Year Capital Improvement Program for fiscal years 2009/10-2013/14 to be in conformance with the General Plan and recommend the CIP for consideration and approval to City Council.
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3. PUBLIC/ORAL COMMUNICATIONS

4. PUBLIC HEARING ITEMS

Item 3. FIRST STEPS DAY CARE - 1963 ORO DRIVE - (MIS2009-00369) - to consider an appeal to the Planning Commission of a Zoning Administrator Permit for a large family daycare to allow up to fourteen children located at 1963 Oro Drive in the Mission San Jose Planning Area. This project is exempt from the California Environmental Quality Act per Guideline 15274, Family Daycare Homes.

Project Planner - Tanu Jagtap, (510) 494-4537, tjagtap@fremont.gov

Recommended Action:	Deny appeal and approve, based on Findings and subject to Conditions.
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5. MISCELLANEOUS ITEMS

Information from Commission and Staff:

- Information from staff: Staff will report on matters of interest.
 - Report on actions of City Council Regular Meeting
- Information from Commission: Commission members may report on matters of interest.

6. ADJOURNMENT

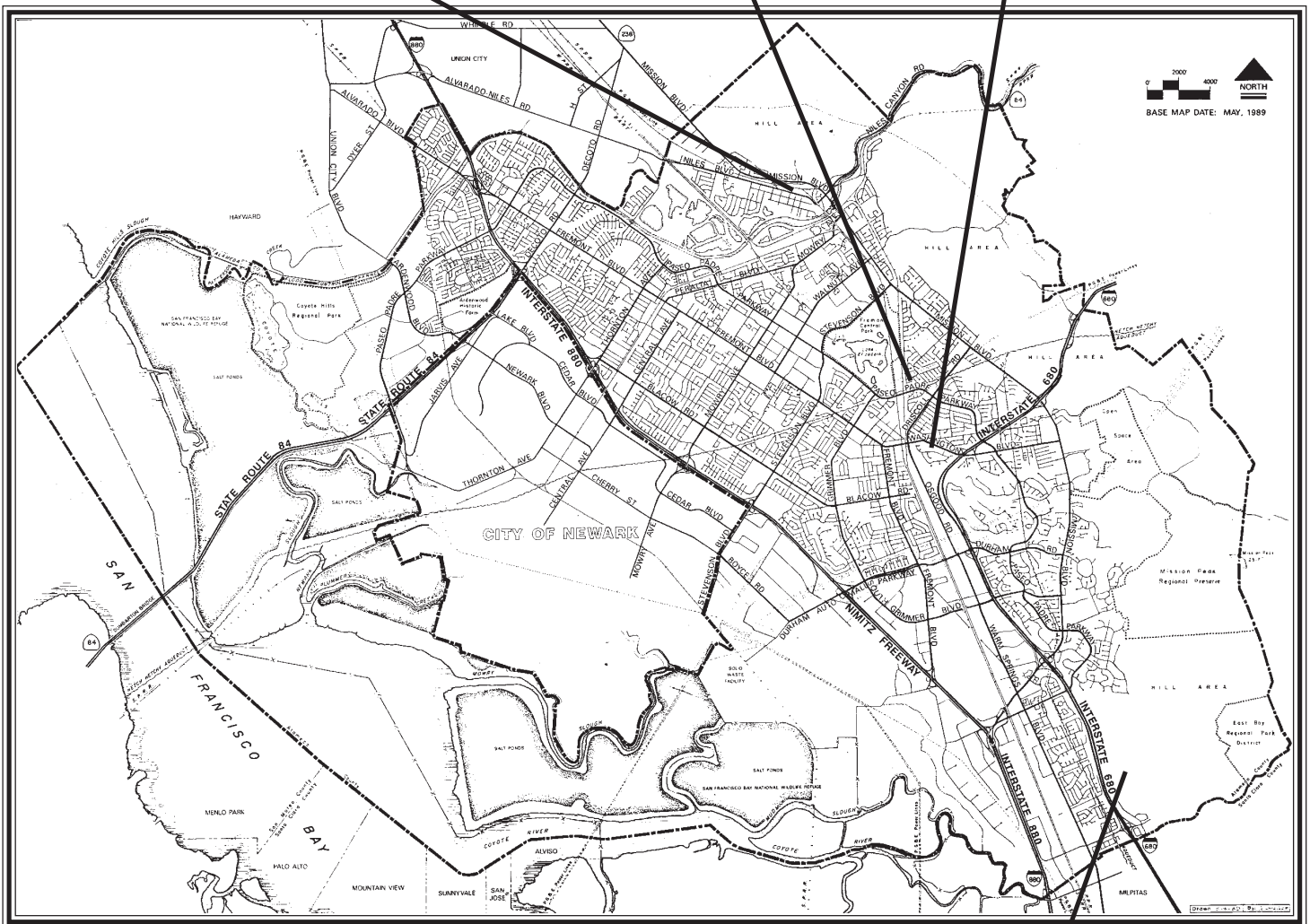
Proximity Map

This map shows the general location of projects (by file number) which are scheduled for Planning Commission consideration.

4) Niles Acquisition/Disposition
PLN2009-00204

3) First Steps Day Care
MIS2009-00369

2) Palm Academy
PLN2009-00193



1) Doublewood Development Agreement
Termination
PLN2009-00171

Citywide:
5) Capital Improvement
PLN2009-00211



PLANNING COMMISSION STAFF REPORT
MAY 14, 2009

Project: **DOUBLE WOOD DEVELOPMENT AGREEMENT CANCELLATION - (PLN2009-00171)**

Proposal: To consider cancellation of a Development Agreement for the Double Wood Golf Course.

Recommendation: Recommend approval to City Council.

Location: Generally located between the terminus of Green Valley Road and Rancho Higuera Road, east of I-680 in the Warm Springs Planning Area.

Assessor Parcel Numbers(s): 519-1718-005-00, 519-1725-006-01, 519-1726-001-00, 519-1726-057-00, 519-1726-087-00, 519-1726-115-00

Area: Approximately 400 acres

Owner: Double Wood Golf Course, LLC

People: James Tong, Applicant.
Paul Kozachenko, Attorney, Gonsalves & Kozachenko.
Momo Ishijima, Staff Planner, (510)494-4531, mishijima@fremont.gov

Environmental Review: This project is exempt from the California Environmental Quality Act (CEQA) per Guideline 15061(b)(3) in that it is not a project which has the potential for causing a significant effect on the environment.

General Plan: Hill Face Open Space, Open Space, Very Low Density Residential (0.5 to 1.5 dwelling units per acre), Institutional Open Space, Toe-of-the-Hill Line, and Foot and Horse Trail land use designations.

Zoning: P-90-9I – Planned District, Amendment I.

Land Use: Undeveloped open space portion of Avalon Homes development.

EXECUTIVE SUMMARY:

The applicant is requesting approval for the cancellation of a Development Agreement between Double Wood Golf Course, LLC and the City of Fremont pursuant to Fremont Municipal Code (FMC) Section 8-7110 (Development Agreement – cancellation). The applicant has indicated that there are no current development plans for the 400-acre site. Planning staff is recommending that the Planning Commission recommend approval of this cancellation to the City Council.

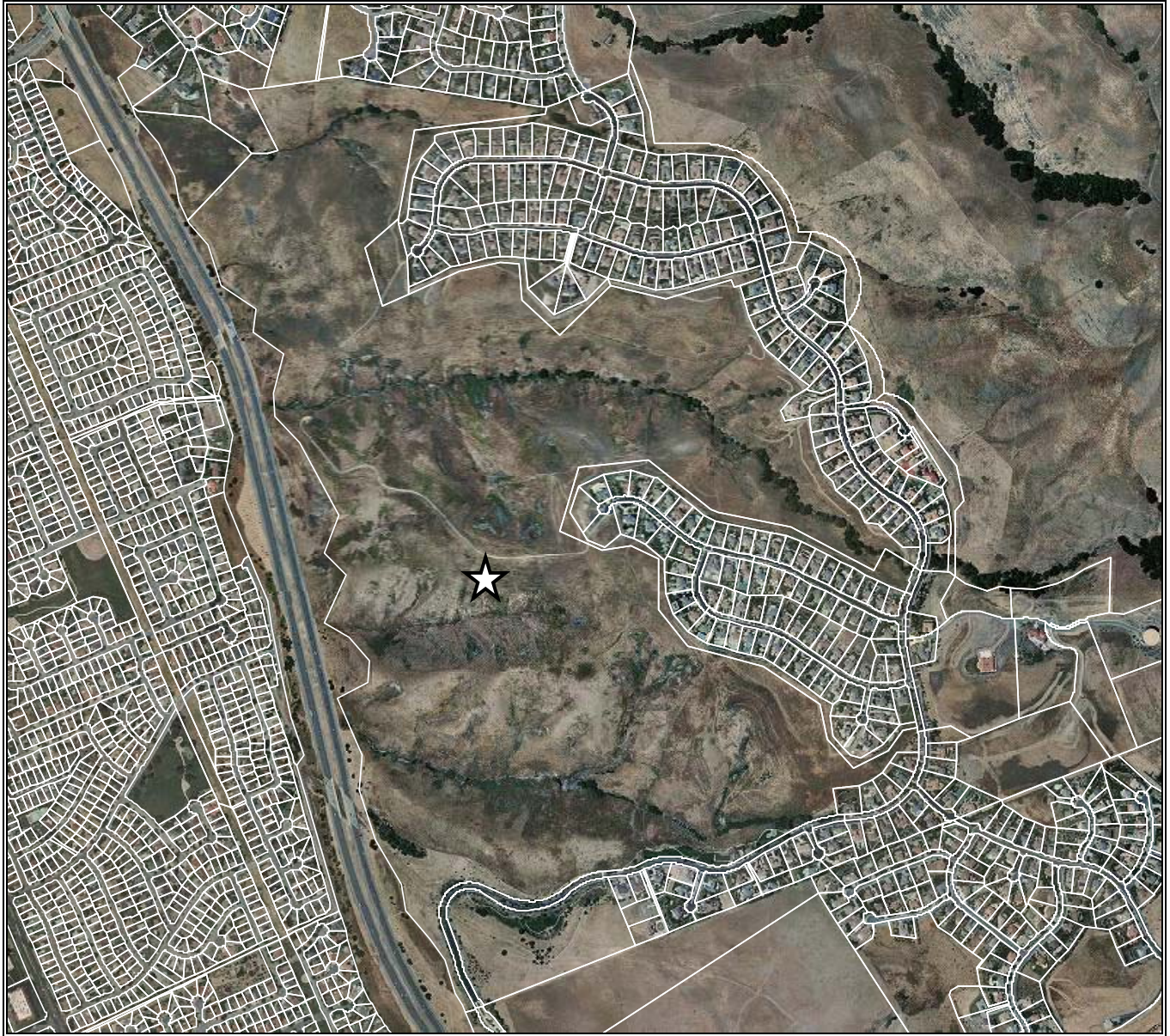


Figure 1: Aerial Photo (2006) of Project Site and Surrounding Area (Scale 1:12,500)



SURROUNDING LAND USES: North: Hill Face Open Space, Residential Very Low Density
 South: Hill Face Open Space
 East: Hill Face Open Space, Residential Very Low Density
 West: Residential Low Density

BACKGROUND AND PREVIOUS ACTIONS:

In May of 1990, the City Council approved P-90-9 (Planned District), DA-90-1 (Development Agreement), EIR-90-31 (Environmental Impact Report) and GP-90-7 (General Plan Amendment) for the Avalon residential project. On May 23, 1995, the City Council approved Planned District Major Amendment P-90-9H to allow a party other than the Homeowner's Association to maintain the westerly 400 acre open space area. On July 9, 1996, the City Council approved Double Wood's proposed amendment to the Planned District, P-90-9I and EIR-90-31A (Subsequent EIR), for an 18-hole golf course.

On October 11, 2001, the Planning Commission approved a preliminary grading plan and minor amendments to the Planned District to reflect changes resulting from requirement of the State Regional Water Quality Control Board (PLN2001-00360). On July 23, 2002, the City Council adopted Ordinance No. 2482 and the City entered in to a Development Agreement with Double Wood Golf Course, LLC (PLN2002-00273). Subsequently, there have been annual reviews of the Development Agreement and an extension of the preliminary grading plan to October 31, 2008 (now expired).

In November of 2002, Fremont voters approved Measure T, the Hill Area Initiative. Measure T modified the 1981 Hill Area Initiative that had governed development in Fremont's hill area for over twenty years. On July 12, 2005, the City Council adopted the zoning text amendment modifying regulations for the O-S (Open Space), P-F (Public Facilities), P-D (Planned District), other zoning regulations (Definitions & Development Standards) and the development policy for the Hill Area to implement Measure T. The golf course development was not subject to voter-enacted Measure T because of the vested rights provided by the Development Agreement.

PROJECT DESCRIPTION:

The Development Agreement is valid for 10 years and the agreement is due to expire on August 24, 2012. Some of the features of the agreement proposed for cancellation include green fee discounts for seniors and juniors, City-sponsored tournaments, advance bookings for residents, use of clubhouse as City benefits and vested development rights and City cooperation as developer benefits. The applicant is requesting approval for the cancellation of a Development Agreement between Double Wood Golf Course, LLC and the City of Fremont pursuant to Fremont Municipal Code (FMC) Section 8-7110 (Development Agreement – cancellation). The applicant has indicated that there are no current development plans for the 400-acre site.

PROJECT ANALYSIS:

Issues

Use: The land use designation over a majority of the project site is Hill Face Open Space. If the Development Agreement were to be cancelled, the project would no longer have “vested rights” and the current regulations governing land use in the hill area would apply. The property would be fully subject to the Hill Area Initiative of 2002 (Measure T.) Since the site was originally part of the larger Avalon development, there is no residential density associated with the project site as all density was transferred previously.

The following lists potential future uses for the majority of the project site:

Hill Face Open Space Permitted Uses

- Agriculture
- Grazing
- Nature observation activities
- Public parks

Hill Face Open Space Zoning Administrator Permit Uses

- Occasional short-term events related to agriculture or animals
- Commercial small scale, low-intensity rearing, training of animals

Hill Face Open Space Conditional Use Permit Uses

- Outdoor recreational uses (not enclosed in a building)
- Public facilities

Smaller areas of the project site have land use designations of Open Space. While the Open Space designation allows for more potential uses, there are substantial constraints on the use of these areas. The areas either are adjacent to I-680 or have access issues or they are on constrained land with slopes greater than 30% or constrained by riparian creeks.

The applicant has indicated that there are currently no other development plans for the project site upon cancellation.

Landslides: The project site is located in a hillside area with topography that includes moderate to steep slopes, rounded ridges, and ephemeral creeks. The creeks include Toroges Creek, Arroyo Agua Fria Creek, and Creek B (discussed below). Much of the golf course site is underlain by landslide-prone sedimentary bedrock and landslide deposits of various sizes are found throughout the site.

In response to developing the golf course and associated facilities, the project included extensive grading, slope stabilization, landslide repair, creek restoration and drainage facility construction. Without construction of the project, ongoing erosion and landslides may occur subject to rainfall and seismic events.

Toroges Creek - Approximately 2,900 linear feet of Toroges Creek was to be vertically realigned, by filling the creek. An open concrete chute, approximately 290 feet long, was to be constructed to bring water down from an elevation of 300 feet to 220 feet to a rock energy dissipater. The creek and chute construction was intended to prevent ongoing erosion on site and down stream of the golf course.

Creek B – Although Creek B is not on the golf course property, access from Avalon Heights Terrace to the golf course crosses Creek B. In 1998, Creek B was damaged by erosion and landslides after severe rain storms. Avalon Homes was required by the Army Corps of Engineers, California Department of Fish and Game and the California Regional Water Quality Control Board to repair Creek B and its riparian habitat. A restoration plan, including a mitigation monitoring plan was approved by the above mentioned public agencies in 2001. Double Wood Golf Course, LLC., subsequently took over the responsibility of the Creek Restoration Project and has completed all of the mitigations and annual

monitoring. No further action has been required and no further landslide damage has been reported in the area.

On-going Maintenance: The ongoing maintenance of the approximately 400 acre property will be the responsibility of the property owner, currently Double Wood Golf Course, LLC. The original Planned District (P-90-9) approval for the Avalon residential project included the following condition of approval:

- Condition 7 - The developer shall be responsible for the maintenance of the western open space area, encompassing approximately 426 acres, located between the proposed residences and Interstate 680, for a period not to exceed five years after the completion of all residences within the proposed project. No later than five years after the completion of all residences, the developer shall convey to the Homeowners Association the title for the western open space area. A statement shall be incorporated in the CC&Rs for this project (or other appropriate document) that the Homeowners Association must accept this conveyance of open space no later than five years after the completion of all residences. Both the developer (for the period of time the title to the property is in his/hers/its name) and the homeowners association shall maintain the open space area in a safe and sanitary manner.

This condition was removed through Planned District Major Amendment (P-90-9H) on May 23, 1995 by the City Council when it approved allowing a party other than the Homeowner's Association to maintain the westerly open space area. No new conditions related to the long-term maintenance, if or when the golf course development was abandoned, were included in subsequent approvals.

There are several easements throughout the project site. Most easements are private, however, there are some public easements. The public easements include easements for sanitary sewer and the south bay aqueduct. The private easements are mainly for storm drain purposes for the Avalon Homes development. Storm water and storm drain facilities from the Avalon Homes development discharge into the project site. The ongoing maintenance of the easements are the responsibilities of the private and public entities with interests within the easements.

General Plan Conformance:

The cancellation of the development agreement is found to be consistent with the following General Plan Goals:

Land Use Chapter

Goal LU 4: Conservation of the City's open space resources.

Open Space Chapter

Goal OS 1: Open space in the hills to protect Fremont's eastern open space frame.

Analysis: The fundamental goal of the City is to maintain the existing open space frame that makes Fremont a special place. While the cancellation of the development agreement may take away from meeting recreational needs of the area residents, the conservation of open space helps protect and enhance lands committed to other open space uses and allows other General Plan goals to be fulfilled.

Environmental Analysis:

The proposed project involving the cancellation of a Development Agreement, has been reviewed under the California Environmental Quality Act (CEQA) Guidelines and has been found to be exempt from environmental review per Section 15061(b)(3)[Review for Exemption], which applies when the activity has no potential for causing a significant effect on the environment because the project site will remain in its existing natural state in lieu of a golf course development.

Response from Agencies and Organizations: At the time of writing this report, staff has not received any expressions of concern from any public agencies or organizations over the proposed project.

Public hearing notification is applicable. A total of 327 notices were mailed to owners and occupants of properties within 300 feet of the site. In addition, 12 notices were mailed as a courtesy to public agencies and interested parties. A Public Hearing Notice was published by The Tri-City Voice on April 29, 2009 and notices to owners and occupants were mailed on April 30, 2009.

ENCLOSURES:

Exhibit:

Exhibit "A" [Draft Ordinance](#)

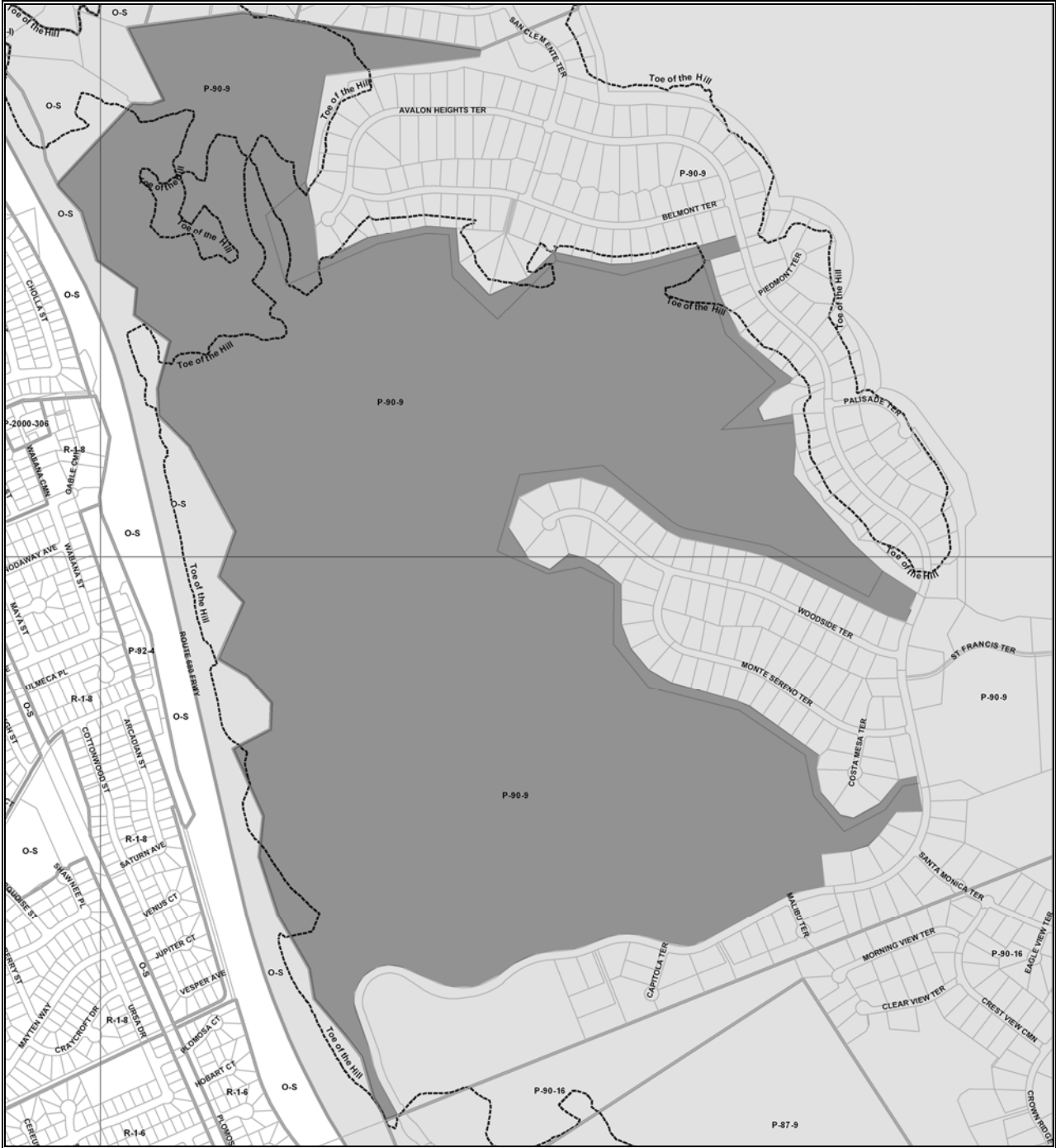
Informational Items:

1. [Applicant letter dated January 31, 2009](#)
2. [Ordinance No. 2482](#)
3. [Double Wood Golf Course Development Agreement](#)

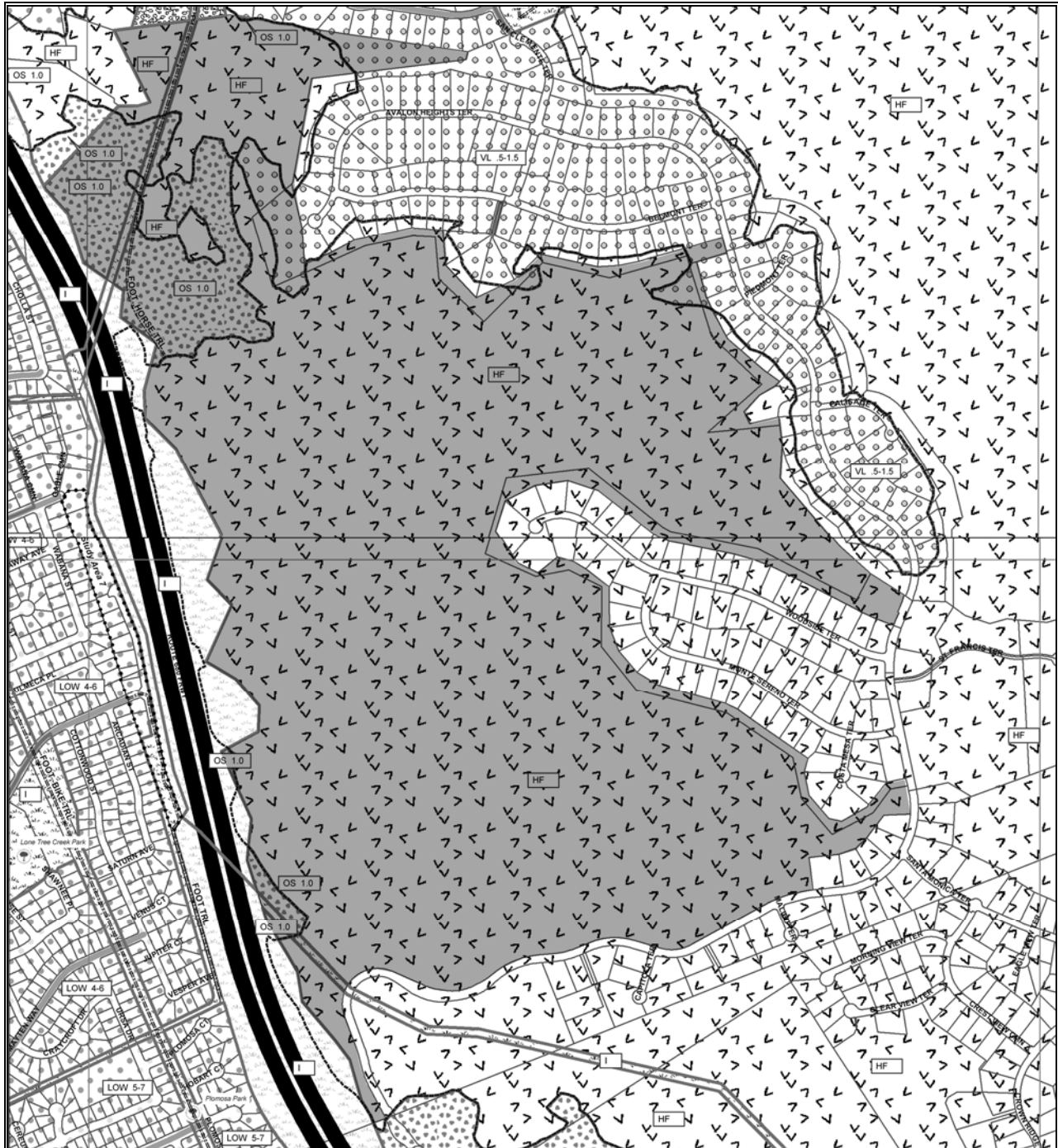
RECOMMENDATION:

1. Hold public hearing.
2. Recommend the City Council find the project is exempt from the California Environmental Quality Act (CEQA) in that it is not a project which has the potential for causing a significant effect on the environment under CEQA Guideline 15061(b)(3).
3. Find PLN2009-00171 (Double Wood Development Agreement Cancellation) is in conformance with the relevant provisions contained in the City's General Plan. The provisions include the designations and goals set forth in the General Plan's Land Use and Open Space Chapters as enumerated within the staff report.
4. Find the public necessity, convenience and general welfare require the adoption of this Development Agreement Cancellation because City desires the retention and preservation of open space resources.
5. Recommend the City Council repeal ordinance No. 2482 and its previous approval of the Development Agreement as requested by PLN2009-00171 (Double Wood Development Agreement Cancellation.)

Shaded Area represents the Project Site



Existing General Plan





PLANNING COMMISSION STAFF REPORT MAY 14, 2009

Project:	PALM ACADEMY - (PLN2009-00193)
Proposal:	To consider a Conditional Use Permit Amendment to U-97-6A to allow a nursery school and preschool to operate within an existing religious facility.
Recommendation:	Approve based on findings and subject to conditions.
Location:	2856 Washington Boulevard in the Mission San Jose Planning Area APN: 525-0351-053-03 (See aerial photo on next page)
Lot Size:	63,008 square feet (1.45 acres)
Building Size:	±2,700 square feet
People:	First Chinese United Methodist Church, Applicant and Property Owner Steve Kowalski, Staff Planner, (510) 494-4532; skowalski@fremont.gov
Environmental Review:	This project is exempt from the California Environmental Quality Act (CEQA) per Guideline 15301 (Use of an Existing Facility).
General Plan:	Low Density Residential 4-6 Dwelling Units per Acre
Zoning:	Single-Family Residence (R-1-8) District

EXECUTIVE SUMMARY:

The applicant is proposing to operate a nursery school and preschool on a church campus located at 2856 Washington Boulevard. The church campus is located in the Single-Family Residence (R-1-8) zoning district and currently operates under Conditional Use Permit U-97-6A. In accordance with Section 8-2603 of the Zoning Ordinance, nursery schools and/or preschools may be permitted in the R-1-8 zoning district subject to approval of a Conditional Use Permit by the Planning Commission. Therefore, the applicant must amend the existing Conditional Use Permit to allow for the operation of the nursery school and preschool at the site. Staff recommends the Planning Commission approve the proposed Conditional Use Permit amendment based on the findings and subject to the conditions contained in Exhibit "B", attached to this staff report.



Figure 1: Aerial Photo (2006) of Project Site and Surrounding Area.



SURROUNDING LAND USES:

- North: Single-family residential (R-1-X-6.5 zone)
- South: Single-family residential (R-1-8 zone)
- East: Single-family residential (R-1-8 zone)
- West: First United Methodist Church (R-1-8 zone)

BACKGROUND AND PREVIOUS ACTIONS:

The subject religious facility was originally approved by the Planning Commission on September 26, 1996 under Conditional Use Permit (CUP) application U-97-6, and was constructed with the proper building permits shortly thereafter in the late 1990's. In addition to the construction of a new church, CUP application U-97-6 proposed the demolition of an existing 2,700 square foot detached garage located along the eastern property line, as well as three existing single-family dwellings located on the property. On July 24, 1997, the Planning Commission approved CUP Amendment U-97-6A allowing the applicant to preserve two of the three existing dwelling units, and convert the 2,700 square foot garage building into an administrative office for the church and classroom space for use as a Sunday school. The applicant is now proposing to use this classroom space for a preschool/nursery school during weekdays from 7:30 AM to 6:30 PM.

PROJECT DESCRIPTION:

The applicant is proposing to operate a preschool and nursery school in an existing 2,700 square foot building on the campus of the First Chinese United Methodist Church located at 2856 Washington Boulevard. The building is currently used as the administrative office for the church, as well as for Sunday school classes during church services. In addition to classroom space, it is equipped with three separate bathrooms and a kitchen which will be used to prepare lunches and snacks for the schoolchildren. Private instruction for individuals and small groups of students will also be held in existing classrooms adjacent to the main worship hall, but the main everyday functions of the schools will be conducted in the Sunday school building.

The two schools would operate from 7:30 AM to 6:30 PM Monday through Friday. Student enrollment would consist of ten (10) infants aged 0-24 months and fifty (50) preschoolers aged 2-5 years. Enrollment would be open to the general public, not just the members of the church's congregation. The children would be served lunch and snacks throughout the day, typical of meal services provided in standard preschools.

PROJECT ANALYSIS:

General Plan Conformance Analysis

The General Plan land use designation for the site is Low Density Residential 4-6 Dwelling Units per Acre. This land use designation is intended to provide for traditional detached single-family residential development while also allowing for uses that are compatible with such development such as schools, churches and parks that are designed in a way so as not to impact the surrounding residential properties. The subject religious facility, including the building that would house the proposed preschool/nursery school, was found to be in conformance with the General Plan when the original Conditional Use Permit was approved in 1996. Staff believes that the proposed school uses would also be consistent with the General Plan in that they conform to the following Land Use Goal:

- **Land Use Policy 1.1** – *Schools, Childcare Centers, Public and Semi-Public Facilities (e.g., churches) and Nursing Care Facilities...may be allowed [in areas designated Residential in the General Plan], although conditions may be established to limit the impacts of these uses on residents.*

Analysis

The intent behind this land use goal is to allow for family-oriented and child-oriented land uses such as schools, parks and churches to locate within residential districts for the convenience of families and the parents of school-aged children. The General Plan recognizes the importance of allowing such uses to locate in residential districts as a means of establishing well-rounded residential neighborhoods, provided they do not have an adverse impact on the surrounding neighborhood. In this case, the site where the school will be located has plentiful staff and visitor parking, and ample room for drop-off and pick-up areas well within the site and away from the street. Therefore, vehicular traffic from parents and staff coming and going from the site will not be noticeable to the surrounding properties or obstruct traffic along Washington Boulevard. Its location along a major roadway and in close proximity to the Interstate 680 freeway make the site convenient for parents of schoolchildren who need to drop off and pick up their children while commuting to and from work.

Zoning Compliance Analysis

The project site is located within the R-1-8 zoning district. In accordance with Section 8-2603 of the Municipal Code, a children's nursery school is permitted in the R-1-8 zoning district subject to approval of a conditional use permit by the Planning Commission. Pursuant to Section 8-22509 of the Municipal Code, the Planning Commission must make the following findings in order to approve a conditional use permit:

- (a) The proposed use is consistent with the General Plan;
- (b) The site is suitable and adequate for the proposed use;
- (c) The proposed use and design would not have a substantial adverse effect on vehicular (including bicycle) or pedestrian circulation or safety, on transit accessibility, on the planned level of service of the street system or on other public facilities or services;
- (d) The proposed use would not have a substantial adverse economic effect on nearby uses;
- (e) The proposed use would not be detrimental to the general welfare of persons residing in the immediate vicinity, the neighborhood, or the community at large; and
- (f) The project will comply with the provisions of Article 27 of the Zoning Ordinance (Site Plan and Architectural Approval).

Discussion:

- (a) General Plan Consistency: As discussed in the General Plan Conformance Analysis section above, the proposed use is consistent with the General Plan's policy to allow public and semi-public family- and child-oriented uses such as schools and churches within residential districts subject to conditions designed to ensure that such uses do not have a negative impact on the neighborhood. A preschool and nursery school use at the subject site would provide a convenient service for parents with young children who need daycare service while not adversely impacting the surrounding neighborhood in that the site is large enough to accommodate parking for staff and drop-off/pick-up areas for the parents of the children who attend the schools.
- (b) Site suitability and adequacy: The project site is well suited for the proposed use in that the building and classrooms that would be used for the schools are already built and already being used by the church for Sunday school classes. Furthermore, the main building is located deep within the site away from the street, there is more than enough parking on site, and the campus has a long, internal roadway leading back to the main school building that provides one-way circulation through the property and ample room for parents who queue their vehicles while dropping off or picking up their children. All of these features will help to ensure that traffic coming and going from the school does not stop along or spill out into the street or otherwise adversely impact the surrounding neighborhood.
- (c) Impact on vehicular (including bicycle) or pedestrian circulation or safety, on transit accessibility, on the planned level of service of the street system or on other public facilities or services: The proposed student enrollment at both schools would be a combined 60 children. The estimated trip generation rate for a preschool with 60 children would be 49 vehicle trips during the PM peak hour. According to the City's Transportation Engineering Division, Washington Boulevard currently experiences very little congestion during the PM peak period; therefore the additional trips generated by the proposed use will not result in a significant increase in congestion on the adjacent roadway network.

The proposed school requires a total of 8 parking spaces, three for the school's staff and another five for parents and visitors. The church currently contains 42 spaces throughout the campus, and the schools' hours will not overlap with any church services; therefore, there is a very large surplus of parking available on the site in the case that large numbers of parents arrive at the school to drop off or pick up their children simultaneously. Similarly, the building that would house the school is located deep within the property along the campus's main internal roadway, thereby ensuring that parents that queue their vehicles while dropping off or picking up will not spill out of the site into the adjacent street and block traffic, bike lanes or transit stops.

- (d) Economic impact on nearby uses: Many of the students who attend the schools will likely be the children of parents who are members of the church's congregation, while others will likely be the children of parents residing in the neighborhood around the church. As this area is largely residential with little commercial services, allowing the schools to operate at the subject site would not have an adverse impact on other businesses in the area.

- (e) Impact to the general welfare of persons residing in the immediate vicinity, the neighborhood, or the community at large: The applicant's business plan proposes a total student enrollment of 60 children per day, Monday through Friday. As mentioned previously, the site has more than enough parking for the proposed use, as well as sufficient queuing distance for drop-off/pick-up within the property to prevent vehicles from backing up into the street. The business hours of the school will resemble standard schooling hours and remain open until 6:30 PM so that parents may drop off their children on the way to work and pick them up on the way home only, with no late evening or weekend schooling taking place.
- (f) Compliance with Article 27 of the Zoning Ordinance: If the Planning Commission chooses to approve the proposed Conditional Use Permit amendment, then the applicant may be required to implement fire suppression system and trash enclosure upgrades in accordance with the current Building, Sanitation and Fire Codes governing educational/assembly uses. If any upgrades are determined to be necessary, the applicant will be required to obtain approval from the Development Organization, including the Building and Fire Departments, to ensure compliance with the applicable building, sanitation and life safety codes. Obtaining these approvals will result in the project complying with Article 27 of the Zoning Code.

Based on staff's analysis of the application, all of the findings prescribed by Section 8-22509 can be made in support of the proposed amendment. As such, staff recommends the Planning Commission approve the project based on the findings and subject to the conditions contained in Exhibit "B".

Environmental Review:

This project qualifies as a Class 1 categorical exemption pursuant to Guideline 15301 of the California Environmental Quality Act (Use of an Existing Facility).

PUBLIC NOTICE AND COMMENT:

Public hearing notification is required for the entitlement being requested. A total of 49 notices were mailed to the owners and occupants of all property located within 300 feet of the project site, as well as all of the properties located along Washington Boulevard between Bruce Drive and Meredith Drive. The notices were mailed out on Thursday, April 30, 2009. A Public Hearing Notice was also published in the *Tri-City Voice* on Wednesday, April 29, 2009. No neighbors have contacted staff about the proposal since the notices were delivered.

ENCLOSURES:

Exhibits:

Exhibit "A"	Proposed School Plans (Site Plan & Floor Plan)
Exhibit "B"	Recommended Findings and Conditions of Approval

Informational Items:

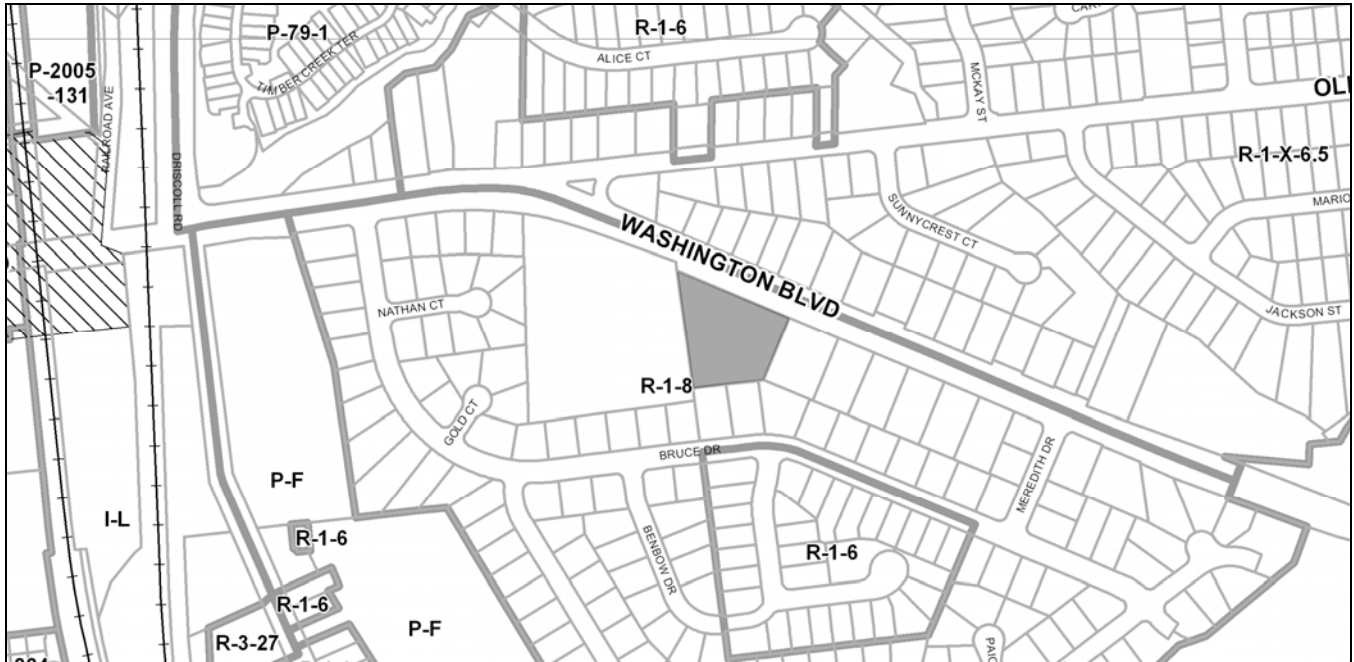
Informational 1	Project Statement prepared by Applicant
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RECOMMENDATION:

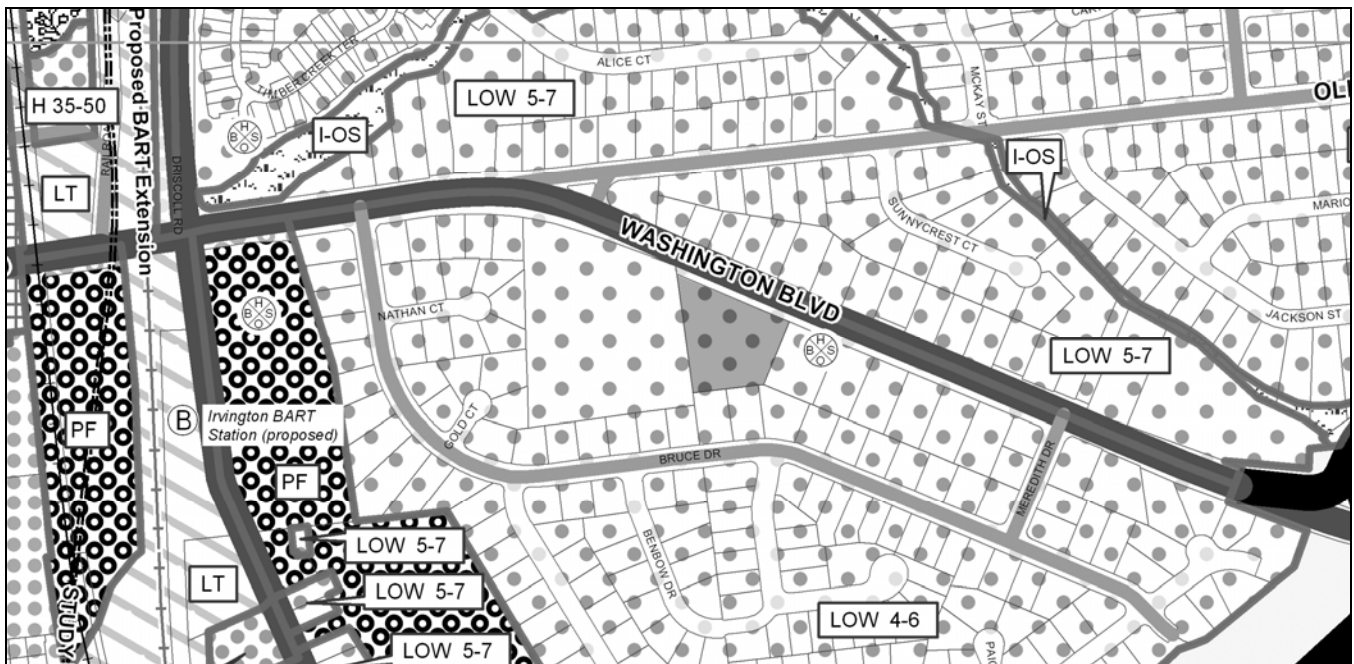
1. Hold public hearing;
2. Find that the project is exempt from the California Environmental Quality Act (CEQA) per CEQA Guideline 15301 which exempts projects involving the use of an existing facility by a land use that is consistent with the current zoning and General Plan land use designation of the site;
3. Find that PLN2009-00193 is in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals and policies set forth in the Land Use Element of the General Plan, as enumerated within the staff report; and
4. Approve PLN2009-00193 as shown in Exhibit "A" and described in Information Item #1, based on the findings and subject to the conditions contained in Exhibit "B".

Existing Zoning

Shaded Area represents the Project Site



Existing General Plan





PLANNING COMMISSION STAFF REPORT
MAY 14, 2009

Project: **FIRST STEPS DAY CARE - (MIS2009-00369)**

Proposal: To consider an appeal of a Zoning Administrator Permit approval for a large family daycare facility to allow up to fourteen children.

Recommendation: Deny appeal and approve, based on Findings and subject to Conditions.

Location: 1963 Oro Drive in the Mission San Jose Planning Area.
APN 525-151-26
(See aerial photo next page)

Area: 2,087 square foot existing residence on a 0.15-acre lot

People: Mary Irma Pantaleon and Geoffrey P Saturino, Applicants
Saturino Patricia & Marzan Maxine, Property Owners
Tanu Jagtap, Staff Planner (510) 494-4537; tjagtap@fremont.gov

Environmental Review: This project is exempt from the California Environmental Quality Act under guideline 15274, Family Daycare Homes.

General Plan: Low Density Residential

Zoning: R-1-8, Single Family Residential District

EXECUTIVE SUMMARY:

On April 7, 2009 the Zoning Administrator approved a large family daycare based on findings and subject to conditions. The Zoning Administrator Permit allows a large family daycare for the care of up to 14 children. The daycare applicant would operate the daycare Monday through Friday from 7:00 a.m. until 6:00 p.m. The approval of the permit was appealed by a neighbor on April 16, 2009, citing concerns related to increased traffic, noise and parking issues. Staff recommends that the Planning Commission deny the appeal and grant the Zoning Administrator Permit.

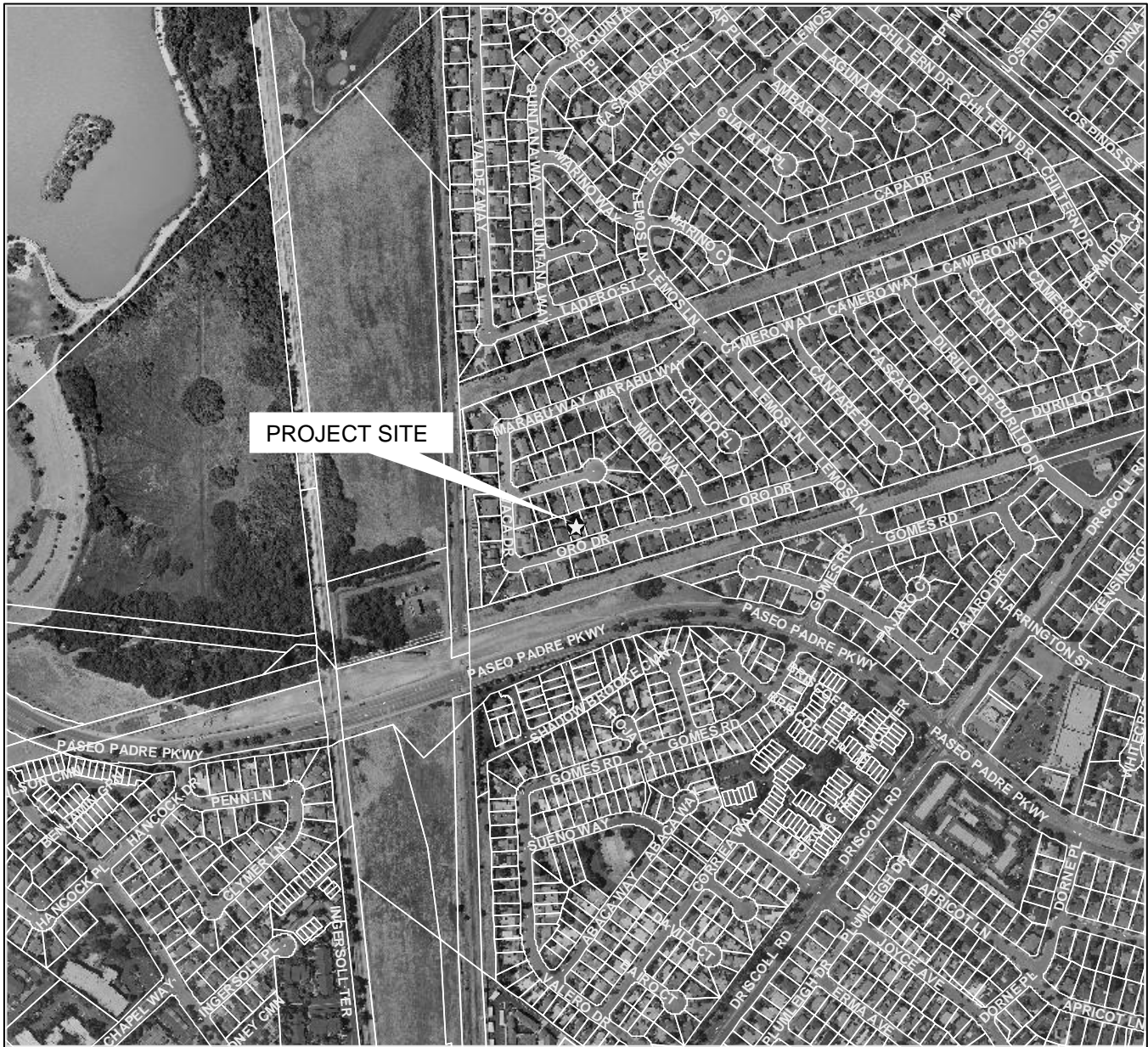


Figure 1: Aerial Photo (2006) of Project Site and Surrounding Area.

SURROUNDING LAND USES: North: Residential; South: Residential
 East: Residential; West: Residential

BACKGROUND AND PREVIOUS ACTIONS:

The project site is an existing single family residence within an established neighborhood. The applicants have been renting this property since June 2008. The applicant currently operates a state licensed small family daycare, which allows the supervision of up to 8 children. Small Family daycare facilities are not regulated by the city per state law.

The applicant applied for a Zoning Administrator use permit (Fremont Municipal Code Section 8-2603.1(d)) for a large family day are facility for up to 14 children. Per Fremont Municipal Code Section 8-22147.5(g), a total of 14 notices were mailed to owners and occupants of property within 100 feet radius of the subject site on February 18, 2009. A Public Hearing Notice was published by *Tri-City Voice* on February 18, 2009. City staff received six e-mail and two letters from residents of Oro Drive, opposing the large family day care use. A Zoning Administrator hearing was held on March 2, 2009. At the hearing seven residents of Oro drive and one property owner of Una Court spoke opposing the approval. Some of the concerns raised at the hearing were, but not limited to:

- Traffic: increase in traffic, parking problems and opportunities for accidents
- Noise: increase in noise level will destroy the essence of a quiet residential street

Based on the concerns expressed by the neighbors, the Zoning Administrator deferred the decision to a later day, subject to site visit and traffic analysis. The applicant also provided a log of drop-off and pickup times of the children in the existing small family day care. On April 7, 2008, The Zoning Administrator approved the large family daycare based on findings and subject to conditions, including new conditions addressing drop off procedures for parents.

Basis for the approval: The Zoning Administrator's decision was based upon the project's ability to meet the required findings for granting a Zoning Administrator Use Permit. Specifically, the size of the use was found to be compatible with its surroundings, subject to conditions that were required to ensure that any potential adverse effects were avoided. The Zoning Administrator and the staff believe that because of the size of the use, as well as the staff imposed conditions, (Conditions 4, 5, 7, 8, 9, 10 and 11, specifically condition 10), the daycare use would not be a detriment to surrounding residential properties. These conditions were drafted after discussion with the traffic engineering staff, analysis and site visit by the Zoning Administrator, and discussion with the neighbors, and the project applicant.

On April 16, 2008, neighbors Howard Herrington L & Delores V of 1976 Oro Drive appealed the Zoning Administrator's approving a for large family day care permit to the Planning Commission citing traffic, noise and parking as reasons for their appeal.

PROJECT ANALYSIS:

State of California Health and Safety Code Conformance: The proposed project is consistent with the State of California Health and Safety Code because the State policy recognizes the need for family daycare facilities to be provided in residential districts and has preempted local regulation by limiting City authority to regulate large family day care facilities in residential districts.

- **California Health and Safety Code Section 1597.40(a):** It is the intent of the Legislature that family day care homes for children should be situated in normal residential surroundings so as to give children the home environment, which is conducive to healthy and safe development. It is the public policy of this state to provide children in a family day care home the same home environment as provided in a traditional home setting.

The Legislature declares this policy to be of statewide concern with the purpose of occupying the field to the exclusion of municipal zoning, building and fire codes and regulations governing the use or occupancy of family day care homes for children, except as specifically provided for in this chapter, and to prohibit any restrictions relating to the use of single-family residences for family day care homes for children except as provided by this chapter.

California Health and Safety Code Section 1597.46 allows a city limited authority to regulate Large Family Day Care within homes on lots zoned for single-family dwellings. A city has three proposed regulatory routes:

1. Classify Large Family Day Care as a permitted use;
2. Grant a non-discretionary permit for Large Family Day Care which meets reasonable standards related to spacing, concentration, traffic, parking and noise; or
3. Require a proposed Large Family Day Care to obtain a permit to use a lot zoned for single-family dwellings. The use permit must be granted if the use meets the reasonable standards related to spacing, concentration, traffic, parking and noise.

City of Fremont has selected regulatory route (3) for Large Family Day Care. The Large Family Day Care must obtain a Zoning Administrator Permit and meet the standards set forth in Fremont Municipal Code Section 8-22147.5.

General Plan Conformance:

The existing General Plan Land Use designation for the project site is Low Density Residential (5 to 7 dwelling units per acre). The proposed project is consistent with the existing General Plan Land Use designation for the project site because the General Plan allows large family day care facilities within the Residential Land Use designation. The General Plan recognizes in the Land Use Chapter under Day Care (Private Sector, Non-Municipal – p.3-84) that “the labor participation rates show a growing number of dual working parents and single parents. This indicates a need for care and supervision of children outside the home and outside regular school hours.” The following General Plan Goals, Objectives, and Policies are applicable to the proposed project:

- **Land Use Policy LU 1.1, Allowed Uses and Densities:** Schools, Childcare Centers, Public and Semi Public Facilities (e.g., churches) and Nursing Care facilities. These uses may be allowed, although conditions may be established to limit the impacts of these uses on residents.

- **Land Use Goal LU 8:** Provision and enhancement of day care services through a partnership of all sectors of the community.
 - **Land Use Policy LU 8.1:** To accommodate day care needs of children, frail elderly and developmentally disabled adults, services shall be allowed in any commercial, industrial or residentially designated area, subject to conditions regarding size of facility, access, parking and the availability of outdoor space.
 - **Land Use Policy LU 8.2:** Care facilities should be located to minimize exposure to noise, localized air pollutions sources and other environmental hazards.
- **Health & Safety Policy HS 8.1.2:** Protect the noise environment in existing residential areas.

Zoning Regulations:

The project site has a zoning designation of R-1-8, Single Family Residence District. The large family day care facility use is a permitted use with a Zoning Administrator Permit within the R-1-8 district. Large family day care facilities are required to obtain a license from the California Department of Social Service, Community Care Licensing Division for Family Child Care Homes. The applicant has filed an application with the Community Care Licensing Division for a large day care facility and is currently licensed as a small family day care (up to eight children) facility. Additionally, the use, as proposed would be in compliance with Ordinance No. 2045, Large Family Day Care Homes, adopted by the City Council on September 21, 1993 (Fremont Municipal Code Section 8-22147.5.)

Section 8-22147.5 of the Fremont Municipal Code provides standards for a large family day care facility, which, in part, authorizes the Zoning Administrator and/or Planning Commission to impose operational conditions on its use. The permit allows for, and ensures that, the proposed use is compatible with its surrounding and location. Operational conditions are imposed to offset potential impacts caused by the facility to adjacent neighboring properties, such as impacts associated with parking, traffic, noise and outdoor play areas.

Generally, the main concerns of adjacent property owners are that of noise, traffic, parking and the safety of children in care. Conditions are therefore included to ensure that the facility will operate in a manner compatible with the neighborhood. Further, should the Zoning Administrator find at anytime that conditions have not been fulfilled or the use has caused an adverse impact on adjacent neighboring properties, the applicant may be required to implement additional mitigation measures.

Traffic:

As stated earlier in 'Background', the subject site is located on Oro Drive, which is a minor residential street with a curb to curb width of approximately 36' and a posted speed limit of 25 mph. Neighbors of Oro Drive expressed concerns with respect to traffic on the street. Staff requested the Traffic Engineering Division to perform a traffic analysis for the proposed large family day care. The finding from the traffic analysis was that the proposed use would have no significant traffic impact to the neighborhood. (Informational 5)

The Traffic Engineering's trip estimates for the proposed 14 child large family day care at were as follows:

Estimated Volumes for the proposed project:

AM Peak Hour (7:00-9:00 a.m.) = 11 Trips or 2 trips every 10 minutes

PM Peak Hour (4:00-6:00 p.m.) = 11 Trips

The traffic engineer's analysis utilized the Institute of Transportation Engineers (ITE), Trip Generation rates for Day Care Center (ITE Land Use #565). Based on the low number of trips the project is estimated to generate, the Transportation Division believes the traffic impact the day care will have on the residential streets in the neighborhood is minimal.

Parking:

Section 8-22147.5 of the Fremont Municipal Code requires a minimum of two parking spaces available to serve the customers during the facility's hours of operation. The parking spaces will be required to be located in a manner to be readily and safely utilized by the customers. (Conditions 9 & 10) In addition, the applicant is requesting the customers to agree to a 10-minute curb time for drop-off and pick-up, to parking only in the subject site's driveway or on the curb next to the subject site (there is 30' of on-street curb parking available at the site) so as not to restrict the flow of traffic for the neighbors. Workers and residents are encouraged to park their vehicles in the garage area in order to encourage drop-off and loading on the driveway or site street frontage.

Noise:

The Fremont General Plan states that the outdoor noise (defined as "unwanted sound") levels for residentially developed areas shall generally maintain a maximum outdoor Ldn (day and night average noise level) of 60 decibels (db). Section 8-22147.5 of the Fremont Municipal Code requires the use and location of the play areas not cause any excessive discomfort for adjacent residents or property owners on the use of their property (Condition 7). Outdoor play will be in the rear yard and is generally scheduled for one hour in the morning and one hour in the afternoon.

Appeal: The appellants' appeal letter describes several reasons to request the permit be denied. The appellant letter states there will be an increase in traffic from the additional child care attendant and additional parents dropping off and picking up their children. They also describe speeding traffic in the neighborhood and a decline in air quality. The appellants state some parents make u-turns in front of the subject property and the appellants' home. The appellants' also believe they have experienced a loss of privacy during typical drop-off and pick-up times.

Conclusion:

Staff believes there are no significant traffic, parking or noise impacts that could be caused by the proposed Large Family Daycare facility that are not addressed by the conditions of approval. The neighborhood and street are not unusual in their pattern of development or configuration. Operational conditions regarding parking, noise and outdoor play areas will be imposed as required by the Zoning Administrator permit to the facility to mitigate impacts to the neighboring properties.

A large family day care facility, in conformance with the regulations set forth by the California Department of Social Service, Community Care Licensing Division for Family Child Care Homes, Fire Marshall and Ordinance No. 2045 for the Fremont Municipal Code, can contribute positively to a child's development, are an essential service for working parents, and offers neighborhood-based care in the City of Fremont.

ENCLOSURES:

Exhibits:

Exhibit "A" Findings and Conditions of Approval for MIS2009-000369

Informational Items:

1. [Ordinance No.2045 \(Fremont Municipal Code Title VIII, Chapter 2\)](#)
2. [Appeal letter of April 16 and April 17 from Howard Herrington L & Delores V.](#)
3. [Applicant Statement of Proposed Operation for First Steps Daycare](#)
4. [Correspondence from:](#)
 - Robert Portillo
 - Robert & Rosa Marie Portillo
 - Ching –Sheng Hwang
 - Luo Larry & Joyce Teng
 - Alan Classen
 - Boban John
5. [Traffic Analysis by Rene Dalton](#)
6. [Applicant flyer for Open House.](#)
7. [Photos of front of 1963 Oro Drive](#)

RECOMMENDATION:

1. Hold public hearing.
2. Find that the project is statutorily exempt from the California Environmental Quality Act (CEQA) under guideline 15274.
3. Find MIS2009-00369 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals, objectives and policies set forth in the General Plan's Residential Land Use Policies Chapter as enumerated within the staff report.
4. Approve First Steps Daycare (MIS2009-00369), subject to findings and conditions in Exhibit "A".



PLANNING COMMISSION STAFF REPORT MAY 14, 2009

Project:	NILES TOWN PLAZA PROPERTY ACQUISITION AND DISPOSITION OF CITY-OWNED PARKING LOTS - (PLN2009-00204)
Proposal:	To consider a General Plan conformity finding, pursuant to Government Code Section 65402(c), for the City's acquisition of property from the Redevelopment Agency regarding a 1.7 acre portion of a larger parcel containing the Niles Town Plaza (37592 Niles Boulevard) for the purposes of ongoing maintenance and management. The finding also includes the sale of two adjacent City-owned parking lots, totaling 1.49 acres (37482 and 37682 Niles Boulevard), to the Redevelopment Agency for the purposes of environmental remediation and future redevelopment.
Recommendation:	Find the property acquisition and disposition conforms to the City's General Plan.
Location:	37482, 37592 and 37682 Niles Boulevard in the Niles Planning Area. APNs 507-0150-006-11; 507-0150-006-01; 507-0150-006-02 (See aerial photo next page)
Area:	3.19 acres
People:	Randy Sabado/City of Fremont, Applicant City of Fremont, Owner Terry Wong, Staff Planner (510) 494-4456; twong@fremont.gov
Environmental Review:	The General Plan conformity finding is not a project as defined by CEQA. Future transfer of property and continued use of the property will be exempt from CEQA review per Section 15061(b)(3) because the project has no potential for causing a significant effect on the environment.
General Plan:	Existing: Community Commercial
Zoning:	Existing: Community Commercial, Historic Overlay District (C-C (HOD))

EXECUTIVE SUMMARY:

The proposed Planning Commission action consists of two components: A General Plan conformity finding for City acquisition of the Niles Town Plaza, a 1.7-acre public plaza, for the purposes providing ongoing maintenance and management; and a General Plan conformity finding for the sale of two City of Fremont owned parking lots that are located adjacent to the Niles Town Plaza to the Fremont Redevelopment Agency for the purposes of future environmental remediation and redevelopment. Government Code Section 65402(c) requires that prior to acquiring or selling real property for any purpose, the planning agency of any city or county with an adopted General Plan must report that the

acquisition or sale conforms to the General Plan. As described in this staff report, the proposed project conforms to the Fremont General Plan.

Staff recommends that the Planning Commission find that City acquisition of a 1.7-acre parcel being developed for use as a public plaza conforms with the Fremont General Plan, and that the sale of 1.49 acres to the Fremont Redevelopment Agency is also in conformance with the Fremont General Plan.



Figure 1: Aerial Photo (2006) of Project Site and Surrounding Area.



SURROUNDING LAND USES: North: Vacant Commercial Land (Union Pacific & Niles Canyon Railways)
South: Retail and Commercial Businesses
East: Commercial Businesses
West: Commercial Businesses

BACKGROUND AND PREVIOUS ACTIONS:

The community vision embraced in the Niles Concept Plan included the creation of “a central gathering place or plaza.” In 2002, the Redevelopment Agency retained RRM to work with the community to develop a conceptual design for a plaza on a portion of the Union Pacific Property in order to realize this vision. The design process was put on hold in 2003 while the City defined the extent of site contamination, but was restarted in 2004. The Agency worked with the California Department of Toxic Substances Control to develop an approved Remedial Action Plan for the site. In February 2005, the City’s Redevelopment Agency purchased the property. In 2007, cleanup of the 1.7 acre portion of the site intended for development of the Niles Town Plaza was completed. On September 13, 2007, the Planning Commission approved a Conditional Use Permit for the development of the Niles Town Plaza.

PROJECT DESCRIPTION:

The General Plan conformity finding includes two components. The first component relates to the transfer of ownership of the Niles Town Plaza from the City’s Redevelopment Agency to the City of Fremont for property at 37592 Niles Boulevard, located on the north side of Niles Boulevard between two City-owned parking lots at the northern termini of H and I streets. The plaza will include paving, turf, a water feature, many trees, a historic passenger depot and historic freight building. The site is under construction and is nearing completion with an anticipated opening in the fall. The Redevelopment Agency’s transfer of ownership to the City of Fremont is for the purpose of providing ongoing maintenance and management of the facility.

The second component relates to the sale of two parking lots located adjacent to the Niles Town Plaza (37482 and 37682 Niles Boulevard). The City of Fremont will sell the two parking lots to the Redevelopment Agency to facilitate environmental remediation from contaminants that resulted from previous railroad operations. The Redevelopment Agency has applied for a \$200,000 grant to fund cleanup of the sites in anticipation of acquiring the lots by June 30, 2009. The Redevelopment Agency plans to start remediation in the spring of 2010. The remediation is expected to last for approximately four to six months.

PROJECT ANALYSIS:

General Plan Conformance:

As described, Government Code Section 65402(c) requires that prior to acquiring or selling real property for any purpose, the planning agency of any city or county with an adopted General Plan must report that the acquisition or sale conforms to the General Plan. The following text describes a number of General Plan policies applicable to the project, all of which the project is consistent with.

The existing General Plan land use designation for the project site is Community Commercial. The plaza and parking lot use is consistent with the existing General Plan land use designation for the project site because it would contribute to the vitality of the Niles commercial district. The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

- Local Economy Policy 3.2.1: Actively promote the revitalization of existing community commercial centers, drawing on the unique and historic features of each community.
- Open Space Policy 3.1.1: Pleasant outdoor spaces should be provided where people can gather for informal activities and special events. These civic open spaces should be in a variety of sizes, easily accessible, protected from excess sun, wind, and noise, and open to views from outside.
- Analysis: The Niles Community Commercial area is located within the core of the Niles Planning Area providing a future plaza, convenient shopping and parking facilities.
- Objective LE 3.2: Thriving community commercial centers whose function is to provide a wide range of goods in a focused, identifiable, pedestrian oriented commercial area.
- Analysis: The subject site is located at the periphery of the Niles' community commercial district. Because of the close proximity of the plaza many nearby residents and people shopping will walk to the site to enjoy the facility.

Zoning Regulations:

As set forth in the Fremont Municipal Code (FMC), public uses, such as a plaza and parking are allowed uses within a Community Commercial District.

Maintenance:

The City of Fremont will provide maintenance services at the Niles Town Plaza. A portion of the cost of maintaining the parking will be funded through the existing Niles Parking and Improvement Area (Parking District). The existing Parking District is comprised of the majority of Niles' commercial properties and was set up in 1978 to cover the maintenance costs of the two lots through payment of a fee based on the City's business license tax. The fees will continued to be collected until such time the parking lots are unavailable for use due to soil remediation activities, which may begin by the end of the year.

Environmental Review:

The proposed Finding of General Plan Conformity is not a project as defined by the California Environmental Quality Act (CEQA). The finding of conformity does not commit the City to a particular project. Subsequent consideration by the City Council for property transfer will be a project that is exempt from CEQA per Guideline 15061(b)(3) for activities that have no potential for causing a significant effect on the environment. The Niles Plaza site disposition is for continued use of the property as a public plaza that will have no physical change in the environment caused by the transfer of ownership of the property. The City parking lot site is a contaminated site and the purpose of property transfer is to facilitate a future soil cleanup and remediation. However, the ownership of the sites has no bearing on the physical activities necessary to allow for cleanup of the property. The State of California Department of Toxic Substances Control has adopted a mitigated negative declaration for remediation activities on the subject parcels.

PUBLIC NOTICE AND COMMENT:

Public hearing notification is applicable. A total of 743 notices were mailed to owners and occupants of properties within 1000 feet of the site. A Public Hearing Notice was published by the *Tri-City Voice* on April 29, 2009 and notices to owners and occupants were mailed on April 30, 2009.

ENCLOSURES: None

RECOMMENDATION:

1. Accept public comment. Public hearing is not required.
2. Find the City's acquisition of the 1.7 acre portion of the Niles Town Plaza (37592 Niles Boulevard) and the City's sale of two City of Fremont owned parking lots (37482 and 37682 Niles Boulevard) adjacent to the Niles Town Plaza to the Fremont Redevelopment Agency are both in conformance with the Fremont General Plan.

Existing Zoning
Shaded Area represents the Project Site



Existing General Plan





PLANNING COMMISSION STAFF REPORT MAY 14, 2009

Project:	GENERAL PLAN CONFORMITY FINDING FOR CAPITAL IMPROVEMENT PROGRAM (CIP) - (PLN2009-00211)
Proposal:	To consider a Finding for General Plan conformity for the Five Year Capital Improvement Program (CIP).
Recommendation:	Find the Five Year Capital Improvement Program for fiscal years 2009/10-2013/14 to be in conformance with the General Plan and recommend the CIP for consideration and approval to City Council.
Location:	City-wide
Area:	N/A
People:	Sean O'Shea, Management Analyst, (510) 494-4777; soshea@fremont.gov Kelly Diekmann, Staff Planner (510) 494-4540; kdiekmann@fremont.gov
Environmental Review:	The General Plan conformity Finding is not a project as defined by CEQA. Approval of the CIP project list is exempt from CEQA review per Section 15061(b)(3) because the project has no potential for causing a significant effect on the environment. Environmental review of specific projects in the CIP will be undertaken prior to their implementation.

EXECUTIVE SUMMARY:

The purpose of this item is to present the projects considered for funding in the FY 09/10 - FY 13/14 Capital Improvement Program (CIP) for a finding of General Plan conformity, and recommend the CIP for consideration and approval to the City Council.

BACKGROUND AND PREVIOUS ACTIONS:

The purpose of the five-year CIP is to translate capital improvement policies of the City Council into specific projects. On January 27, 2009, the City Council was presented with the initial range of capital projects submitted for consideration in the CIP update, reviewed the capital funding issues, and received the preliminary rankings of projects in the General Fund, Gas Tax, Traffic Impact Fee, Bike & Pedestrian, Parks, Committed/Restricted, Debt, and Redevelopment fund groups.

Following the January 27th Council Meeting, staff proceeded to further estimate the cost and scope of projects and prepare the next level of prioritization. Staff presented this prioritized ranking and five-year spread of the projects to the City Council on April 7, 2009. The purpose of this meeting was to present the second stage of project prioritization in each fund group and obtain City Council feedback regarding projects to be funded in the CIP.

In addition to the City Council process, the Recreation Commission held study sessions over a series of dates in late 2008 to determine the priorities for park development and maintenance projects. The outcome of the sessions was a prioritized list of park projects that the Recreation Commission ultimately reviewed at a regularly scheduled public hearing. The enclosed attachment, Exhibit “A”, is a final prioritization list with levels of funding proposed for each fiscal year and the outcome of all meetings, including both Recreation Commission and City Council.

The two most recent Findings for General Plan Conformity and subsequent adoption of the Capital Improvement Program occurred in 2005 and 2007. The Planning Commission reviewed the Capital Improvement Program in May, 2005, (PLN2005-00253) for fiscal years 2005/06-2009/10 for conformance with the General Plan, and recommended the Program to City Council. The Planning Commission also reviewed the Program in May, 2007, (PLN2007-00313) for fiscal years 2007/08-2011/12 for conformance with the General Plan, and recommended the Program to City Council.

PROJECT DESCRIPTION:

In accordance with California State statutes, the City’s Capital Improvement Program (CIP) must be reviewed by the Planning Commission to determine conformance with the General Plan prior to adoption by the City Council.

PROJECT ANALYSIS:

Development of the CIP five-year plan has been underway since September, 2008. In identifying the capital needs of the City, staff has updated the CIP based on input from the City Council, the Recreation Commission, and various City departments.

Approximately 109 capital projects, including 11 redevelopment projects have been added to the CIP for funding consideration throughout the next five years (2009/10-2013/14). The CIP document appropriates funding for two years (2009/10 – 2010/11), and adds three planning years (2011/12 - 2013/14). Additional projects were considered for capital funding, but due to limited resources and prioritization criteria, are not recommended for inclusion in the CIP at this time. If a project not currently proposed for funding is able to be funded over the next five years, then that project will need to return to the Commission for a Finding of General Plan Conformity prior to its addition to the CIP. Many of the projects proposed in the updated CIP relate to street maintenance, maintenance operations, City park improvements, capital maintenance, equipment replacement, and repair or upgrade of existing facilities and infrastructure. Other projects proposed for funding include retrofitting and upgrades to City buildings; development of City parks; and the Washington Boulevard/Paseo Padre Parkway Grade Separation.

The appropriate scope of Planning Commission review is to determine and comment to the City Council on the consistency between the CIP listed projects and the adopted General Plan. Individual projects have been reviewed by staff to determine the consistency with the goals, objectives and policies of the General Plan and its various functional elements of Land Use, Housing, Local Economy, Open Space, Public Facilities, Transportation, Natural Resources, Health & Safety and Parks & Recreation.

General Plan Conformance:

Although each individual project contained in the CIP has been reviewed for conformity, for discussion purposes, the projects proposed have been separated into nine categories based on funding source as listed below. These projects are the first tier priority projects proposed for funding in the FY2009/10 – 2013/14 CIP. Applicable General Plan Goals, Objectives and Policies for each group are then presented. Finally, a brief explanation of General Plan conformity is provided for each category.

- 1) General Fund 501 Projects Proposed for Funding
 - Building Fire Alarm System Replacement (Citywide)
 - Building Security System Replacement (Citywide)
 - Capital Improvement Program / Cost and Scope Contingency
 - Capital Improvement Program / Emerging Projects Reserve
 - Capital Improvement Program Management
 - Capital Replacement for Parks
 - City Owned Parking Lots for Administrative Facilities and Parks & Recreation
 - Citywide Playground Equipment Replacement
 - Concrete Repair Program
 - Downtown Plan
 - Fremont Main Library Roof and HVAC Screen Replacement
 - Fuel Monitoring System
 - IT Services Department Relocation
 - Minor Building Modifications (Citywide)
 - Monitoring Mission Peak Landslide
 - Outlaying Parks Restroom Interior Rehabilitation
 - Patterson House Building Systems Rehabilitation
 - Public Buildings- Capital Replacements and Major Maintenance Repair
 - Reserve for Emerging Projects/Contingencies
 - Street Overlays
 - Warm Springs Park Arbor Replacement
 - Warm Springs Park Recreation Room and Restroom Replacement

Applicable General Plan Goals, Objectives and Policies

Fundamental Goal F-1: Fremont as a city of quality and distinction.

Fundamental Goal F-5: A vibrant, well-defined, visually distinctive central business district as the focus of the City's governmental, cultural and commercial activity.

Fundamental Goal F-10: Public services responsibly managed and equitably distributed throughout the City.

Public Facilities Goal A range of public facilities and services to meet the health, safety, PF 1: leisure, cultural, and general government needs of all Fremont residents.

Objective T 2.6: A pedestrian walkway system in community commercial centers, in the Central Business District, neighborhood shopping centers and serving major transit.

Policy T 2.6.2: Central Business District development shall provide safe, convenient and continuous pedestrian connections and esplanades.

Policy T 3.1.1: Provide street improvements and facilities that enhance neighborhood, district and City identity.

Land Use Goal LU 2: Commercial development focused in well-defined commercial areas.

Policy LU 2.6: Development of the CBD should be guided by a design and development plan which identifies a limited core area for very high intensity development, and other sub-areas as necessary or appropriate. Projects within one-half mile of the BART Station should be high intensity, or be phased or designed so as to not preclude the long-term achievement of a high intensity core area.

The above listed projects are in conformance with the identified General Plan goals, objectives and policies because: the City building projects enable staff to effectively operate and provide City services while planning for future needs; the development of a Downtown will help make Fremont a city of quality and distinction; concrete repair and playground equipment replacement decreases public safety risks while maintaining city assets; and upgrades to City systems and services, including preparation and management of the CIP and updating the General Plan, enable the City to equitably distribute public services.

2) Gas Tax Projects Proposed for Funding

BART Extension to Santa Clara County (City Staff Participation)

Blacow Frontage Road on the west side of Blacow

Bridge Repair, Citywide

Cape Sealing

Citywide Bus Turnout Repair

Citywide Engineering and Traffic Survey (Speed Limit)

Congestion Management Program

Cost and Scope Contingency-Gas Tax Group

Curb and Gutter Repairs, Citywide

Dumbarton Rail Corridor (City Staff Participation)

Emerging Projects Reserve-Gas Tax Group

Intersection Ramps, Citywide

Niles Blvd. Roadway Improvements (funded also with Redevelopment Funds)

Paseo Padre Electroliers Replacement

Pavement Management Program

Route 84 Realignment (City Staff Participation)

Signal Coordination Program

Slurry Sealing

Storm Drainage (Drainage System Repair), Citywide
Street Maintenance
Street Overlays
Traffic Counting Program
Traffic Service Operations
Traffic Signal Electricity
Traffic Signal Knockdown Repair
Traffic Signal Maintenance, Citywide
Traffic Signal Maintenance, State
Tupelo Storm Drain Repair
Underground PG&E Electrical Facilities

Applicable General Plan Goals, Objectives and Policies

Fundamental Goal F-10: Public services responsibly managed and equitably distributed throughout the City.

Transportation Goal T 1: Efficient use of roadway system to provide convenient travel, reduce congestion, and improve air quality.

Objective T 1.1: Completion and maintenance of the designated road network.

Policy T 1.1.1: The City establishes a hierarchy of roads and cross-sections that show typical, minimum right-of-way requirements for each type of non-freeway street. Actual right-of-way requirements may vary depending on site-specific constraints, and the need for on-street parking or bicycle lanes.

Policy T 1.1.3: Maintain roadways in good condition.

Objective T 1.2: Smooth traffic on most arterials and collectors.

Policy T 1.2.1: Maintain a Level of Service "D," with a target Volume to Capacity ratio of .85 at major intersections, except where the achievement of such a level of service can be demonstrated to conflict with environmental, historic or aesthetic objectives or where regional traffic is a significant cause of congestion or where substantial transportation improvements have been required and further mitigation is not feasible because of identified constraints. Level of Service "D" may not be achieved within the Central Business District and the Industrial Planning Area.

Policy T 1.2.2: Limit access to parkways and arterials to maintain capacity, efficiency and safety of traffic flow.

Policy T 1.2.3: Coordinate traffic signals to provide smooth vehicular flow on arterials.

Policy T 1.2.4: Work closely with other jurisdictions responsible for roadways within Fremont and those which directly feed into Fremont's street network.

Objective T 1.5: Participation in efforts to reduce regional traffic congestion.

Transportation Goal T 3: Transportation facilities and corridors that enhance the City's identity, and especially its historic, visual and natural resources.

Objective T 3.1: Transportation facilities and corridors that enhance community and City identity.

Policy T 3.1.1: Provide street improvements and facilities that enhance neighborhood, district and City identity.

Policy T 3.1.2: Require transportation facilities that aesthetically complement their built and natural environment.

Public Facilities Goal PF 3: Water, sewer and flood control systems designed to serve the level development contemplated in the General Plan.

Objective PF 3.1: Cooperation with water, sewer and flood control districts in planning for service needs and facilities in Fremont.

The above listed projects are in conformance with the identified General Plan goals, objectives and policies because: street widening and intersection improvements provide efficient use of the roadway system while also reducing congestion and improving air quality; street improvements enable roadways to be maintained in good condition which reduces accidents and injuries; intersection signal coordination projects provide for smooth vehicular flow which leads to the enhanced safety and efficiency of traffic flow; enhanced transportation facilities allow the City to provide adequate parking and accommodate future growth; utility undergrounding improves roadway appearance and enhances gateways and neighborhoods; and regional transportation projects improve regional traffic flow and local traffic.

- 3) Traffic Impact Fee Fund Projects Proposed for Funding
Blacow Road/Grimmer Blvd. Intersection Improvements
Cost and Scope Contingency – Traffic Impact Fee
Development Impact Fee Updates
Emerging Project Reserve – Traffic Impact Fee
Kato Road Widening, Warren Avenue to Milmont Drive
Traffic Improvement Program
Warm Springs Widening, Corporate Way to South of Brown Road
Washington and Paseo Padre Parkway Grade Separation

Applicable General Plan Goals, Objectives and Policies

Transportation Goal T 1: Efficient use of roadway system to provide convenient travel, reduce congestion, and improve air quality.

Objective T 1.1: Completion and maintenance of the designated road network.

Policy T 1.1.1: The City establishes a hierarchy of roads and cross-sections that show typical, minimum right-of-way requirements for each type of non-freeway street. Actual right-of-way requirements may vary depending on site-specific constraints, and the need for on-street parking or bicycle lanes.

Policy T 1.1.2: Continue to require new development to pay its fair share of roadway improvement costs.

Objective T 1.2: Smooth traffic on most arterials and collectors.

Policy T 1.2.1: Maintain a Level of Service "D," with a target Volume to Capacity ratio of .85 at major intersections, except where the achievement of such a level of service can be demonstrated to conflict with environmental, historic or aesthetic objectives or where regional traffic is a significant cause of congestion or where substantial transportation improvements have been required and further mitigation is not feasible because of identified constraints. Level of Service "D" may not be achieved within the Central Business District and the Industrial Planning Area.

Policy T 1.2.2: Limit access to parkways and arterials to maintain capacity, efficiency and safety of traffic flow.

Policy T 1.2.3: Coordinate traffic signals to provide smooth vehicular flow on arterials.

Policy T 1.2.9: Consider grade separated rail-roadway crossings to improve traffic flow at critical intersections. Prior to approval, grade separated crossings shall be evaluated for their impacts on the character of commercial centers, on neighborhood character, on neighborhood quiet and on scenic vistas from designated scenic roads.

The above listed projects are in conformance with the identified General Plan goals, objectives and policies because: street widening and intersection improvements provide efficient use of the roadway system while also reducing congestion and improving air quality; street improvements enable roadways to be maintained in good condition which reduces accidents and injuries; street improvements enhance neighborhoods and help complement the natural environment; and regional transportation projects such as the Grade Separation accommodate multiple modes of transportation while improving regional traffic flow and local traffic.

4) Bike and Pedestrian (Measure B) Fund Projects Proposed for Funding

Alder Avenue Sidewalk
Bay Trail Alignment Feasibility Study
Bicycle & Pedestrian Projects
Bike Master Plan
Cedar Street Sidewalk (Bryant to Ellsworth)
Central Park/Gomes Park, Pedestrian Path and Railroad Crossing
Citywide Bicycle Parking Project
Deep Creek Pedestrian Intersection
East Warren Avenue Sidewalk
Emilia Lane Sidewalk
Frobisher Drive Sidewalk
Hetch Hetchy Trail Study (Scott Creek Road to Warren)
Mission Blvd. Sidewalk & Mission/Driscoll Pedestrian Signal Improvement
Pedestrian Signal Upgrade
Traffic Safety and Education Program
UPRR Corridor Trail Feasibility Study
Walnut Avenue – Argonaut Lane Reduction

Applicable General Plan Goals, Objectives and Policies

Fundamental Goal F-11: Increased transportation alternatives and reduced dependency on the automobile.

Transportation Goal 2: Convenient alternatives to the automobile to conserve energy, reduce congestion, improve air quality and provide a variety of transportation options.

Objective T 2.4: A safe and convenient bicycle network that facilitates bicycle travel for commuting to work, school, shopping and for recreation.

Policy T 2.4.3: Promote bicycle travel.

Policy 2.6.3: Encourage pedestrian travel throughout the City to increase the number of trips made on foot to reduce traffic congestion, improve air quality, and improve public health.

Policy 2.6.4: Maintain a pedestrian network that is safe and secure and provides access to essential pedestrian destination and districts throughout the City with additional infrastructure, improved design, and routine maintenance.

Open Space Objective 3.1: Preservation of historic civic open spaces, and development of new pedestrian walkways, public plazas, and other open spaces in community commercial centers, the Central Business District, and at public facilities.

The above listed projects are in conformance with the identified General Plan goals, objectives and policies because: sidewalk improvements help create pedestrian walkway systems; bike lane development promotes bicycle travel and creates a safe and convenient bicycle network.

5) Park Facilities Fund Projects Proposed for Funding

Centerville Community Park Softball Turf Improvements

Central Park: Dog Park

Central Park: Master Plan for the Park

Central Park: Permanent Skate Park

Central Park: Reservable Picnic Area “C” Expansion

Central Park: Sand Volleyball Court Conversion

Central Park: Teen Center Hard Court Paving

Central Park North: Reservable Picnic Area

Central Park North: Restroom Building adjacent to Always Dream Playpark

Contingency – Project Cost and Scope for Parks Funds

Development Impact Fee Updates

Dusterberry Neighborhood Park Development

Karl E. Nordvik Park Development: Soccer Field, Turf & Parking

Los Cerritos Community Park Reservable Picnic Area

Northgate Community Park Perimeter Sidewalk

Park Land Acquisition

Parks and Recreation Master Plan Implementation

Applicable General Plan Goals, Objectives and Policies

Fundamental Goal F-12: The availability of parks, recreational facilities and opportunities.

*Natural Resource Goal Protection and conservation of natural resources in the planning,
NR 2: design and management of the City’s landscape.*

Parks & Recreation Goal

P R 1: Parks and recreation facilities to meet the community’s needs.

Objective PR 1.1: A range of parks and recreation facilities serving the needs of a large and diverse population and accessible to all residents.

Policy PR 1.1.1: Parks and recreation facilities shall be consistent with the standards and guidelines of the Parks and Recreation Chapter of the General Plan.

*Parks & Recreation Goal Park lands and recreation facilities to reflect Fremont’s image and
P R 2: identity.*

Objective PR 2.1: Parks and recreation facilities reflecting the unique attributes of Fremont.

Policy PR 2.1.1: Maintain and enhance the City’s park and recreation facilities and resources that significantly contribute to Fremont’s image and identity.

Policy PR 2.1.2: Acquire and develop new park lands and recreation facilities consistent with the Parks and Recreation Master Plan.

Policy PR 2.1.3: Whenever feasible, public parks and recreation facilities should be on City-owned land.

Policy PR 2.1.4: Conserve and enhance Fremont's unique historic parks.

Policy PR 2.1.5: Maintain the City's parks according to the City's ability to fund on-going maintenance activities.

Objective PR 2.2: Minimum feasible environmental impact of new park and recreation facilities on their surroundings.

Policy PR 2.2.1: New sites should conform to the Criteria for Site Selection in the Parks and Recreation Master Plan.

Objective PR 2.3: Central Park managed for its long-term environmental health and vitality.

Policy PR 2.3.1: Central Park development shall be in accordance with a long range master plan that considers the long term role and function of the park within the City, competing needs and uses for the park, the importance of preserving its natural areas, and the need for the areas of active and passive use. Privately owned and operated buildings shall not be permitted in Central Park west of the Southern Pacific railroad tracks.

Open Space Goal 3: Civic open space to enhance community identity and the quality of the urban environment.

Objective OS 3.1: Preservation of historic civic open spaces, and development of new pedestrian walkways, public plazas and other open spaces in commercial centers, the Central Business District and at public facilities.

Policy OS 3.1.1: Pleasant outdoor spaces should be provided where people can gather for informal activities and special events. These civic open spaces should be in variety of sizes, easily accessible, protected from excess sun, wind, and noise, and open to views from outside.

The above listed projects are in conformance with the identified General Plan goals, objectives and policies because: the identified park projects provide recreation facilities to meet the City's needs; upgrades and improvements to City parks enable these lands to reflect Fremont's image and identity; park acquisition and development contributes to the City goal of five acres of park land per 1,000 residents; and park development and repair help maintain facilities that enhance community identity and add to the quality of the urban environment.

6) Committed/Restricted Fund Group Projects Proposed for Funding

Address Assignment and Parcel Update Automation

Cushing Bridge Resurfacing

Development Impact Fee Updates

Family Resource Center (FRC) Mansard Roof

Family Resource Center (FRC) Parking Lot ADA Modifications and Resurfacing

General Plan Update

Historic Inventory

Sabercat Creek Water Quality Improvements

Applicable General Plan Goals, Objectives and Policies

Fundamental Goal F-12: The availability of parks, recreational facilities and opportunities.

Parks & Recreation Goal

P R 1: Parks and Recreation facilities to meet the community's needs.

Objective PR 1.1: A range of parks and recreation facilities serving the needs of a large and diverse population and accessible to all residents.

Public Facilities Goal A range of public facilities and services to meet the health, safety, PF 1: leisure, cultural and general government needs of all Fremont residents.

Fundamental Goal F-10: Public services responsibly managed and equitably distributed throughout the City.

Policy T 3.1.1: Provide street improvements and facilities that enhance neighborhood, district and City identity.

Policy T 1.1.4 A roadway system within the historic community commercial centers should service these areas but not encourage through traffic that disrupts pedestrians, bicyclists and transit users.

Policy T 1.2.6: Discourage through traffic on local streets.

The above listed projects are in conformance with the identified General Plan goals, objectives and policies because: traffic calming provides street improvements that enhance neighborhood identity while discouraging through traffic on local streets; installation of art at public facilities helps meet the cultural needs of all Fremont residents; maintenance of public facilities reduces risks and hazards to residents of Fremont; and public building maintenance reduces risks to City employees which facilitates the equitable and efficient distribution of public services.

7) Debt Projects Proposed for Funding

Police Building Seismic Retrofit

Applicable General Plan Goals, Objectives and Policies

Health and Safety Goal 2: Minimum feasible risk to residents and property due to seismic activity.

Policy HS 5.1.1: Continue to provide emergency response services throughout the City.

Policy HS 5.1.3: Continue to provide necessary training and equipment to improve emergency response.

The above listed projects are in conformance with the identified General Plan goals, objectives and policies because: the establishment of an emergency operations center will facilitate the coordination of response in the event of a disaster; seismic upgrades to City facilities reduce risks and hazards to residents and employees; and construction of new fire stations and the replacement of fire trucks provides for the improvement of emergency response services throughout the City.

8) Redevelopment Fund Projects Proposed for Funding

Bay Street Streetscape & Public Parking
Centerville Unified Site
Former UP Site: Phase II
Greenbelt Gateway along Grimmer Blvd
Niles Blvd. Roadway Improvements (funded also with Gas Tax Funds)
Niles Canyon Railway Pedestrian Bridge
Niles Town Plaza
Peralta Blvd. Undergrounding of Existing Utility Lines
Streetscape Improvements: H Street
Street and Sidewalk Improvements on Joseph Street
Housing – New Construction

Applicable General Plan Goals, Objectives and Policies (based on the Adopted and April 2003 Revisions to the Housing Element)

Fundamental Goal F-6: A unified city with thriving districts and emerging communities each with its own identity.

Transportation Goal T 1: Efficient use of roadway system to provide convenient travel, reduce congestion, and improve air quality.

Transportation Goal 2: Convenient alternatives to the automobile to conserve energy, reduce congestion, improve air quality and provide a variety of transportation options. Policy 2.6.3 Encourage pedestrian travel throughout the City to increase the number of trips made on foot to reduce traffic congestion, improve air quality, and improve public health.

Policy 2.6.4: Maintain a pedestrian network that is safe and secure and provides access to essential pedestrian destination and districts throughout the City with additional infrastructure, improved design, and routine maintenance.

Transportation Goal T 3: Transportation facilities and corridors that enhance the City's identity, and especially its historic, visual and natural resources.

Policy T 3.1.1: Provide street improvements and facilities that enhance neighborhood, district and City identity.

Policy T 3.1.2: Require transportation facilities that aesthetically complement their built and natural environmental.

Objective HS 6.1: Sufficient regulation of land use to minimize potential health and safety risks associated with current or past use of hazardous materials in Fremont.

Open Space Objective 3.1: Preservation of historic civic open spaces, and development of new pedestrian walkways, public plazas, and other open spaces in community commercial centers, the Central Business District and at public facilities.

Open Space Goal 3: Civic open space to enhance community identity and the quality of the urban environment.

Housing Goal H 1: Conservation and enhancement of existing residential neighborhoods.

Policy H 1B: Identify and program the construction of basic neighborhood improvements (sidewalks, street trees, etc) and public facilities (roads, lighting, etc) in areas where they are lacking or substandard.

Housing Goal H 3: Housing Affordable and Appropriate for a Variety of Fremont Households at All Economic Levels Throughout the City Consistent with the Hill Area Initiative of 2002.

Policy H 3C: Encourage the development of a diverse housing stock that provides a range of housing types (including family and larger-sized units) and affordability levels and ensures that affordable housing is equitably distributed throughout the City's Planning Areas consistent with the Hill Area Initiative of 2002.

The above listed projects are in conformance with the identified General Plan goals, objectives and policies because: major interchange improvements help reduce regional traffic congestion and facilitate traffic flow into and out of the City; housing assistance and rehabilitation meets the needs of Fremont workers by providing additional housing options and enhancing existing neighborhoods; street improvements enhance neighborhoods, improve pedestrian safety and help complement the natural environment; quality development and well-designed civic open spaces in the Redevelopment project areas will help make Fremont a city of quality and distinction; and increasing the housing supply helps meet State requirements for the development of new housing while also providing options for residents at all income levels.

Environmental Review:

The proposed Finding of General Plan Conformity is not a project as defined by the California Environmental Quality Act (CEQA). The finding of conformity does not commit the City to any of the identified projects in the CIP. Subsequent consideration by the City Council for approving the CIP will be a project subject to the CEQA. Approval of the CIP qualifies for an exemption from the California Environmental Quality Act (CEQA) per Guideline 15061 (b)(3) for activities that have no potential for causing a significant effect on the environment. Furthermore, individual projects identified within the CIP will be reviewed in accordance with CEQA requirements prior to their implementation when specific project details are available for analysis.

PUBLIC NOTICE AND COMMENT:

A Public Hearing Notice was published by *The Tri-City Voice* on April 29, 2009.

ENCLOSURES:

Exhibits:

- Exhibit "A" [CIP project list by funding category](#)
- Exhibit "B" [CIP project descriptions - alphabetical](#)

RECOMMENDATION:

1. Hold public hearing.
2. Find CIP General Plan Conformity Finding, PLN2009-00211, in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the goals, objectives and policies set forth in the General Plan's Land Use, Housing, Parks & Recreation, Health & Safety, Open Space, Public Facilities, Transportation and Natural Resource Chapters as enumerated within the staff report.